

**REMARKS**

At the time of the Final Office Action dated January 5, 2004, claims 2-15 were pending and rejected in this application.

The Examiner rejected claims 2-15 under the second paragraph of 35 U.S.C. § 112. This rejection has been addressed in the Amendment filed on March 8, 2004, which is to be entered pursuant to the Request for Continued Examination filed concurrently herewith.

On page 2 of the Final Office Action, the Examiner cited 37 C.F.R. § 1.75(d)(1) and M.P.E.P. § 608.01 and asserted that the "specification is objected to as failing to provide proper antecedent basis for the claimed subject matter." Applicants note, however, that the Examiner did not reject the claims under the first paragraph of 35 U.S.C. § 112, which is reproduced below:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.

For ease of reference 37 C.F.R. § 1.75(d)(1) is also reproduced below:

The claim or claims must conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description. (emphasis added)

A common rejection under the first paragraph of 35 U.S.C. § 112 is that "The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention." See M.P.E.P. § 706.03(c). Since the Examiner did not make such a rejection in the Final Office Action, Applicants must assume that the language in the claims finds clear support in the specification.

As evident from the emphasized portion of 37 C.F.R. § 1.75(d)(1) reproduced above, the specification is not required to provide "antecedent basis" (i.e., identical word for word) for the claimed subject matter. Instead, 37 C.F.R. § 1.75(d)(1) states that the specification alternately need only provide "clear support" for the claim language. The Examiner's objection, however, emphasizes the "antecedent basis" option yet omits the "clear support option" under 37 C.F.R. § 1.75(d)(1). The failure by the Examiner to consider the "clear support" option provided by 37 C.F.R. § 1.75(d)(1) is evidenced by the Advisory Action, in which the Examiner asserted that "it is not sufficiently clear that there is proper antecedent basis for the claimed subject matter referred to in paragraph 1 of the Final Office Action."

Since, as noted above, the Examiner has not rejected the claims under first paragraph of 35 U.S.C. § 112, the Examiner has already determined that the claims find clear support within the specification. Since "clear support" is all that is needed to satisfy

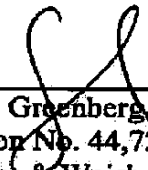
37 C.F.R. § 1.75(d)(1), Applicants respectfully submit that the Examiner has improperly objected to the specification under 37 C.F.R. § 1.75(d)(1). Therefore, Applicants respectfully solicit withdrawal of the imposed objection to the specification under 37 C.F.R. § 1.75(d)(1).

Applicants believe that all claims are in condition for allowance. However, Applicants invite the Examiner to call the undersigned if it is believed that a telephonic interview would expedite the prosecution of the application to an allowance. Accordingly, and in view of the foregoing remarks, Applicants hereby respectfully request reconsideration and prompt allowance of the pending claims.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

Date: June 30, 2005

Respectfully submitted,



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**REQUEST  
FOR  
CONTINUED EXAMINATION (RCE)  
TRANSMITTAL****Address to:  
Mail Stop RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450**

Application Number	10/026,384
Filing Date	12/21/2001
First Named Inventor	John S. Cox, et al
Art Unit	2857
Examiner Name	Hal D. Wachsman
Attorney Docket Number	RSW920010209US1 (7161-25U)

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

**1. Submission required under 37 CFR 1.114**

Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

- a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

- i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_  
 ii. ☐ Other \_\_\_\_\_

- b. ☒ Enclosed

- i. ☒ Amendment/Reply  
 ii. ☐ Affidavit(s)/Declaration(s)  
 iii. ☐ Information Disclosure Statement (IDS)  
 iv. ☒ Other Petition to Withdraw Holding of Abandonment

**2. Miscellaneous**

- a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(f) required)  
 b. ☐ Other \_\_\_\_\_

**3. Fees:** The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

- a. ☒ The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 08-0461

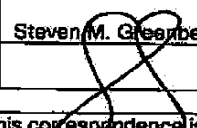
- i. ☐ RCE fee required under 37 CFR 1.17(e)  
 ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17)  
 iii. ☐ Other \_\_\_\_\_

- b. ☐ Check in the amount of \$ \_\_\_\_\_ enclosed

- c. ☐ Payment by credit card (Form PTO-2083 enclosed)

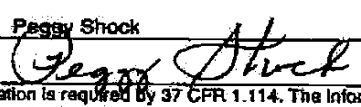
**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit information on PTO-2038.

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED**

Name (Print/Type)	Steven M. Greenberg	Registration No. (Attorney/Agent)	44,725
Signature		Date	June 30, 2005

**CERTIFICATE OF MAILING OR TRANSMISSION**

I hereby certify that this correspondence is being deposited with the United States Postal service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Name (Print/Type)	Peggy Shock	Date	June 30, 2005
Signature			

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.